

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Apr 09, 2025

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

JUN DAM,

Plaintiff,

v.

MARK D. WALDRON, Chapter 7 Panel
Trustee; PAMELA M. EGAN, Attorney to
Chapter 7 Trustee; POTOMAC LAW
GROUP PLLC; and GIGA WATT
BANKRUPTCY ESTATE,
Defendants.

No. 2:24-CV-00417-SAB

ORDER DISMISSING CASE

Before the Court is Defendants' Motion to Dismiss Complaint, ECF No. 15, and related Motion for Judicial Notice, ECF No. 18. Plaintiff is pro se. Defendant is represented by Pamela Egan. The motion was heard without oral argument.¹

BACKGROUND

The Giga Watt Project was formed to build and run a large-scale cryptocurrency mining operation. As part of the project, Giga Watt sold so-called "WTT Tokens" that entitled a token purchaser to use electricity generated by the Giga Watt facility to mine and generate cryptocurrency. The sales proceeds from the WTT Tokens totaled more than \$22 million, which was held by Perkins Coie

¹ Pursuant to LCivR 7(i)(3)(B)(iii), oral argument is not necessary.

1 LLP (“Perkins”) in an escrow account. After the initial sale of tokens was
2 complete, Perkins provided refunds to some purchasers, paying them from the
3 escrow fund. Perkins subsequently transferred \$21.6 million to Giga Watt entities,
4 and by February 22, 2018, the escrow account was depleted.

5 Giga Watt filed for Chapter 11 bankruptcy on November 19, 2018, in the
6 Eastern District of Washington (“the Bankruptcy Case”). Defendant Mark D.
7 Waldron (“Trustee Waldron”) was appointed as the Chapter 11 Trustee on January
8 24, 2019. On November 30, 2020, Trustee Waldron commenced an adversary
9 proceeding (the “Adversary Proceeding”) against Perkins alleging that Perkins’s
10 disbursement of the escrow funds violated a fiduciary duty that resulted in Giga
11 Watt’s collapse. On December 15, 2020, the Bankruptcy Court entered an order
12 approving the employment of Defendant Potomac Law Group (“PLG”) as special
13 litigation counsel in the Adversary Proceeding. Pursuant to this employment, PLG
14 was entitled to a 30% contingency fee of any recoveries obtained up to \$10 million
15 and a 25% contingency fee of any recoveries obtained that were greater than \$10
16 million, subject to Bankruptcy Court approval.

17 On December 16, 2020, Plaintiff Jun Dam (“Dam”) filed a class action
18 lawsuit in this Court (the “Class Action Suit”). The class members consisted of
19 individuals who had purchased WTT Tokens, and the class was represented by two
20 law firms: Blood, Hurst & O’Reardon, LLP and the Western Washington Law
21 Group, PLLP. (“Class Counsel”).

22 PLG proceeded to work on the Adversary Proceeding for approximately
23 three and a half years without objection—over one year of which was spent
24 negotiating with Perkins and Class Counsel. They ultimately reached an agreement
25 to settle both the Adversary Proceeding and the Class Action Suit (the “Settlement
26 Agreement”), wherein Perkins agreed to pay \$3 million to the bankruptcy estate
27 and \$4.5 million to the class members.

28 On October 4, 2023, the Bankruptcy Court approved the Settlement

1 Agreement. On February 2, 2024, this Court entered a preliminary approval of the
2 Settlement Agreement. The class members were allowed to object or opt-out, but
3 none did, and this Court then entered final approval of the Settlement Agreement
4 on May 23, 2024.

5 The Settlement Agreement defines a “Released Claim” as “any and all
6 actions, claims, demands, rights, suits, and causes of action of whatever kind or
7 nature against the Released Parties” It further defines “Released Parties” as
8 the bankruptcy estate, Trustee Waldron, and “agents and attorneys” of the
9 bankruptcy estate. Finally, it defines a “Releasing Party” as “Plaintiff and each and
10 every Class Member.” Under the Settlement Agreement’s release clause, each
11 Releasing Party was deemed to have waived any Released Claim against any
12 Released Party.

13 On July 26, 2024, PLG filed its final fee application, seeking \$900,000 (*i.e.*,
14 30% of the \$3 million adversary proceeding settlement), plus \$1,648.15 in
15 expenses. However, on August 22, 2024, Dam filed an objection, asking the
16 Bankruptcy Court not to disburse any funds from the bankruptcy estate to PLG. On
17 September 17, 2024, the Bankruptcy Court granted PLG’s application over Dam’s
18 objection, noting that counsel for PLG indicated that she spent 2,536.8 hours
19 working on the Adversary Proceeding and that her typical rate is \$600. Thus, PLG
20 estimated its services were valued at \$1,522,080 and the Bankruptcy Court found
21 that the requested \$900,000 was reasonable. The fees were paid to PLG on
22 September 19, 2024.

23 On December 13, 2024, Dam filed a civil Complaint in this matter (the
24 “Civil Suit”), alleging that Trustee Waldron and PLG engaged in fraudulent
25 conduct, which led to the Bankruptcy Court awarding the fees in error. On January
26 30, 2025, Defendants filed a motion, asking this Court to dismiss the Civil Suit
27 because, among other issues, Dam’s claims were void as a violation of the
28 Bankruptcy Court’s automatic stay. The same day, Defendants filed a motion

1 asking the Court to take judicial notice of several docket entries in support of their
2 motion to dismiss.

3 **I. DEFENDANTS' MOTION FOR JUDICIAL NOTICE**

4 Pursuant to Federal Rule of Evidence 201(b), a court may take judicial
5 notice of filings on its own dockets, as well as dockets of other courts. *United*
6 *States v. Wilson*, 631 F.2d 118, 119 (9th Cir. 1980). Defendants ask the Court to
7 take judicial notice of filings in the Bankruptcy Case, associated appeals before
8 this Court, and the Adversary Proceeding. The request is appropriate, and the
9 motion for judicial notice is **granted**.

10 **II. DEFENDANTS' MOTION TO DISMISS**

11 Defendants ask the Court to dismiss this action without prejudice because
12 (1) Plaintiff's attempt to impose a constructive trust on the Perkins \$3 million
13 settlement proceedings and to otherwise recover those proceeds are void as an
14 attempt to recover property of the estate and from the estate; (2) the Court lacks
15 subject matter jurisdiction to grant relief from the stay; (3) the Court lacks subject
16 matter jurisdiction over the claims against Trustee Waldron and PLG because
17 Plaintiff failed to obtain the Bankruptcy Court's permission to sue Trustee
18 Waldron and PLG; (4) Plaintiff fails to state a claim because Trustee Waldron and
19 PLG are immune and the claims are released; and (5) the Complaint fails to
20 establish personal jurisdiction over and fails to state a claim against the "Giga Watt
21 Bankruptcy Estate" because the Giga Watt Bankruptcy Estate lacks the capacity to
22 be sued.

23 Defendants assert amending the Complaint would be futile because Plaintiff
24 cannot remedy the lack of subject matter jurisdiction, Trustee Waldron or PLG's
25 immunity, the release, or the estate's lack of capacity to be sued.

26 The Court agrees.

27 **Motion Standard**

28 Under Fed. R. Civ. P. 12(b)(1), a movant can challenge the Court's subject

1 matter jurisdiction to hear an action by asserting the allegations contained in the
2 Complaint are insufficient on their face to invoke federal jurisdiction. *Safe Air for*
3 *Everyone v. Meyer*, 373 F.3d 1035, 1039 (9th Cir. 2004).

4 To survive a motion to dismiss under Rule 12(b)(6), a complaint must allege
5 “enough facts to state a claim to relief that is plausible on its face.” *Bell Atl. Corp.*
6 *v. Twombly*, 550 U.S. 544, 570 (2007). A claim is plausible on its face when “the
7 plaintiff pleads factual content that allows the court to draw the reasonable
8 inference that the defendant is liable for the misconduct alleged.” *Ashcroft v. Iqbal*,
9 556 U.S. 662, 678 (2009).

10 When a bankruptcy petition is filed, an “estate” is created, which includes
11 “all legal or equitable interests of the debtor in property as of the commencement
12 of the case.” 11 U.S.C. § 541(a)(1); *In re FitzSimmons*, 725 F.2d 1208, 1210 (9th
13 Cir. 1984). The broad category of the estate includes causes of action in district
14 court. *Cusano v. Klein*, 264 F.3d 936, 945 (9th Cir. 2001). Furthermore, when a
15 bankruptcy petition is filed, injunctive relief referred to as the “automatic stay” is
16 triggered, which prevents “any act to obtain possession of property of the estate or
17 of property from the estate or to exercise control over property of the estate. *See* 11
18 U.S.C. § 362 (a)(3); *Gruntz v. Cnty. of Los Angeles*, 202 F.3d 1074, 1081 (9th Cir.
19 2000). Filing a motion in another court seeking to recover estate property violates
20 the automatic stay. *See In re Pace*, 67 F.3d 187, 191–92 (9th Cir. 1995). A
21 violation of the automatic stay is void. *In re Schwartz*, 954 F.2d 569, 571 (9th Cir.
22 1992).

23 Here, the Complaint constitutes a violation of the automatic stay in the
24 Bankruptcy Case and is therefore void. Moreover, the Court does not have subject
25 matter jurisdiction over the claims against Trustee Waldron and PLG. Finally,
26 Plaintiff has failed to state a claim upon which relief may be granted.

27 The Court finds that granting leave to amend would be futile because
28 additional allegations will not remedy the lack of subject matter jurisdiction or will

1 state claims against defendants who are not subject to suit. *See Eminence Capital,*
2 *LLC v. Aspeon, Inc.*, 316 F.3d 1048, 1052 (9th Cir. 2003).

3 Accordingly, **IT IS HEREBY ORDERED:**

4 1. Defendants' Motion for Judicial Notice, ECF No. 18, is **GRANTED**

5 2. Defendants' Motion to Dismiss Complaint, ECF No. 15, is
6 **GRANTED**. Plaintiff's Complaint is dismissed with prejudice.

7 3. The remaining motions are **denied as moot**.

8 4. The Clerk of Court is directed to enter judgment in favor of
9 Defendants and against Plaintiff.

10 **IT IS SO ORDERED.** The Clerk of Court is directed to enter this Order,
11 provide copies to pro se Plaintiff and defense counsel, and **close** the file.

12 **DATED** this 9th day of April 2025.



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A handwritten signature in blue ink, reading "Stanley A. Bastian", is written over a horizontal line.

18 Stanley A. Bastian
19 Chief United States District Judge
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